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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,375	12/05/2001	Hue Scott Snowden	16761	6465

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KIMBERLY-CLARK WORLDWIDE, INC.  
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EXAMINER
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BAREFORD, KATHERINE A

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 05/07/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/007,375

Applicant(s)

SNOWDEN ET AL.

Examiner

Katherine A. Bareford

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period of Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-11, drawn to a nonwoven fabric, classified in class ~~442~~, subclass 327.
  - II. Claims 12-13, drawn to a process for treating a nonwoven fabric, classified in class ~~427~~, subclass 209.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product as claimed can be made by another and materially different process, such as by co-extruding the fabric layer and the "treatment" (i.e. coating) layers.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Mr. William Harrick on March 25, 2003 a provisional election was made with traverse to prosecute the invention of Group II, claims 12-13.

Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-11 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

*Claim Rejections - 35 USC § 112*

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 12-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12, lines 1-4 are confusing as worded in respect to the steps of lines 5-6. Specifically, lines 1-4, provide "A process for treating a lightweight nonwoven fabric having opposing first and second surfaces, one of which is rich in antistatic agent and one of which has minimal antistatic agent, said fabric having good barrier properties as measured by alcohol

repellency, comprising the steps of:”. Lines 5-6, go on to provide the steps of “applying an alcohol repellency treatment to a first or both of said surfaces, and in a separate step, applying an antistatic treatment to the second surface only of said fabric”. A reading of the specification as originally filed indicates that a fabric, provided with first and second surfaces, is treated by a alcohol repellency treatment and a separate antistatic treatment to the second surface only, so as to provide a fabric with the claimed rich in antistatic agent surface and the claimed minimal in antistatic agent surface. See page 2, 10 and the example on pages 11-12 of the specification. Thus, lines 1-4 of the claim would be describing the results of the claimed treatment steps of lines 5-6. The Examiner has examined the claims in regard to this view. However, as worded, the claim would also appear to encompass a fabric already provided with an antistatic rich surface and minimal antistatic surface and already having good barrier properties which is then treated with the steps of lines 5-6. Such a fabric is not provided by the specification as originally filed. Applicant should clarify what is required by the claims.

Claim 12, line 3, “good” is vague and indefinite as to what is required as to the barrier properties. This is a relative term, and the specification, in its discussion of alcohol repellency on page 4 does not clarify what is considered good.

The other dependent claim does not cure the defects of the claims from which it depends.

### *Claim Rejections - 35 USC § 103*

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coates (US 4382990) in view of Coates (US 4082887).

Coates '990 teaches a method of treating lightweight nonwoven sheet (fabric). See column 1, lines 10-20, column 6, lines 55-68 and column 8, lines 30-40. A first coating treatment can be applied to the sheet to provide desirable barrier properties to the sheet, including blood barrier and water barrier. See column 2, lines 40-60. The first coating can be provided to a first side of the sheet. See column 6, lines 50-55 and column 9, line 40 through column 10, line 20. The coating includes water insoluble wax, a non-ionic surfactant, a water insoluble binder resin, water, and polytetrafluoroethylene particles. Column 2, lines 20-40. A second coating treatment can be applied to the opposite side of the sheet to provide an antistatic agent on the second surface of the sheet. See column 6, lines 40-55 and column 9, line 40 through column 10, line 20. These steps provide a sheet rich in antistatic agent on one side of the sheet and with minimal antistatic agent on the other side of the sheet. See column 10, lines 15-20.

Claim 13: Coates '990 teaches that the antistatic coating can be applied before the barrier coating. See column 9, line 55 through column 10, line 10. Coates '990 further teaches that the substrate coated with the barrier coating can be dried at an elevated temperature to cure the binder in the coating. See column 6, lines 10-20 and column 10, lines 5-10. As shown by column 10, lines 5-10, the antistatic coating is applied prior to fully curing the barrier coating.

Coates '990 teaches all the features of these claims except that the barrier coating is provided with a material for alcohol repellency to give good alcohol barrier properties. Coates '990 does teach that except for the addition of the polytetrafluoroethylene and the optional removal of the antistatic agent, the coating compositions are substantially the same as those described in Coates 4,082,887. See column 2, lines 20-40.

Coates '887 teaches a barrier coating composition to be applied to a nonwoven sheet to provide desirable water barrier and other properties. Column 1, lines 5-10. The coating material includes water insoluble wax, a non-ionic surfactant, a water insoluble binder resin and water. See column 2, line 30-65. The coating material also contains an antistatic agent. Column 2, lines 30-65. The coating material can also be provided with an anionic aqueous dispersion of a fluoropolymer useful as an alcohol repellent. See column 8, lines 20-45. When the coating containing the fluoropolymer is coated onto a nonwoven substrate, it provides a product exhibiting good alcohol barrier performance. Column 8, lines 40-50.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Coates '990 to further provide a material providing alcohol repellency in the first coating composition as suggested by Coates '887 to provide a desirable barrier coated product, because Coates '990 teaches a desirable coating composition for treating a nonwoven substrate to provide a product with desirable barrier properties and teaches that the composition are substantially the same as that taught by Coates '887 except for the removal of antistatic agents and the addition of polytetrafluoroethylene, and Coates '887 teaches that it is desirable to provide a material to provide alcohol repellency in the composition for treating a nonwoven substrate.

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*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine A. Bareford whose telephone number is (703) 308-0078. The examiner can normally be reached on M-F(7:00-4:30) with the First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P. Beck can be reached on (703) 308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

*Kath Bareford*  
KATHERINE A. BAREFORD  
PRIMARY EXAMINER  
GROUP 1100/1100